

SUBJECT: Reemployment of Annuitants into Acquisition-Related Positions

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837-1-10 PURPOSE

This Instruction sets forth the HHS policy for reemploying annuitants into acquisition-related positions without discontinuing their annuity or offsetting their salary during the period of reemployment.

837-1-20 BACKGROUND AND AUTHORITY

On October 6, 2006, the President signed into law the General Services Administration Modernization Act (P.L. 109-313), which allows Federal agencies to hire retired annuitants to fill critical vacancies in the acquisition field. The new legislation allows agencies to hire an individual receiving an annuity from the Civil Service Retirement and Disability Fund (i.e., the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS)) without discontinuing such annuity to fill an acquisition-related position under certain circumstances. This authority expires December 31, 2011.

In addition to the acquisition-related positions defined in the Office of Management and Budget (OMB) Policy Letter 05-01, reemployed annuitants can:

- Act as mentors to entry and mid-level staff and provide on-the-job training and coaching;
- Serve as additional staff for short-term projects or surges;
- Provide staffing flexibility to support emergency acquisition needs (e.g., natural disasters or other national emergencies);
- Provide a knowledge pool for best practices that could be leveraged across HHS;
- Serve as a consulting resource to address specific Department acquisition issues; and

- Provide support to program managers as acquisition experts to more effectively link contracting and program functions and improve the acquisition process.

837-1-30 REFERENCES

- A. General Services Administration Modernization Act, Public Law 109-313
- B. Office of Management and Budget Memorandum, Subject: Plans for Hiring Reemployed Annuitants to Fill Acquisition-Related Positions, dated September 4, 2007
- C. Office of Management and Budget Policy Letter, 05-01, Subject: Developing and Managing the Acquisition Workforce, dated April 15, 2005
- D. Title 41, U.S. Code § 433 (Section 37 of the Office of Federal Procurement Policy Act)
- E. 5 U.S.C. §§ 3327 and 3330
- F. 5 CFR Part 330
- G. OPM Guide to Processing Personnel Actions

837-1-40 COVERAGE AND EXCLUSIONS

A. Coverage. The following acquisition-related positions may be filled at any grade level in any geographic location:

1. All positions in the general schedule contracting series (GS-1102);
2. All Contracting Officers (CO) regardless of general schedule series with authority to obligate funds above the micro-purchase threshold;
3. All positions in the general schedule purchasing series (GS-1105);
4. Program and project managers who monitor and/or manage one or more contract-related programs or projects;
5. All Contracting Officers' Technical Representatives (COTRs), also known as Project Officers and Contracting Officers' Representatives (CORs) who monitor and/or manage vendor performance under one or more contracts;
6. Any significant acquisition-related positions identified by the Chief Acquisition Officer (CAO) using the guidance provided above.

B. Exclusions.

1. Employees who separated under authority of the Voluntary Separation Incentive Pay (VSIP)

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Program are prohibited from reemployment within 5 years of separation unless repayment of the separation incentive is made.

2. Annuitants reemployed by HHS before the effective date of this policy and subject to salary offset may continue to serve in their positions in accordance with the provisions of their appointment. These annuitants will continue to have their salary offset by the amount of the annuity received for the period of employment. However, annuitants who provide written notice of their intent to resign from HHS unless their salary offset is waived in accordance with this policy may be converted to a new appointment, if their waiver is approved. Such annuitants must be willing to sign a statement of understanding confirming their intent to accept reappointment only if provided the benefit of the salary offset waiver (see sample at Exhibit A, Sample Statement of Understanding).

837-1-50 RESPONSIBILITIES

- A. Office of the Assistant Secretary for Administration and Management (ASAM), Office of Human Resources (OHR) is responsible for:
 1. Updating and maintaining this policy in coordination with ASAM, Office of Acquisition Management and Policy (OAMP);
 2. Preparing and submitting annual reports regarding use of this authority to the Office of Personnel Management (OPM) and Office of Federal Procurement Policy (OFPP) by November 1 of each fiscal year (beginning November 2008);
 3. Monitoring the use of this authority through accountability reviews or reporting to ensure that use of the authority is consistent with the requirements of this policy.
- B. Operating Divisions (OPDIVs) and Staff Divisions (STAFFDIVs) are responsible for:
 1. Providing oversight to ensure that the use of this authority is consistent with the requirements of the policy;
 2. Preparing and submitting waiver requests (see Exhibit B) to their operating human resources organization;
 3. Ensuring that this policy is applied in a consistent manner when determining whether or not a waiver should be requested.
- C. The Office of Acquisition Management and Policy (OAMP) is responsible for:
 1. Approving or rejecting the selection of GS-15s and above for HHS Acquisition staff regardless of GS occupational series;
 2. Maintaining case files of all reemployed annuitants appointed under this authority;
 3. Making case files available for review and analysis upon request by OHR, OPM or OMB.

D. Operating Human Resource organizations are responsible for:

1. Ensuring that waiver requests meet all legal requirements prior to employee's entry on duty date;
2. Establishing and maintaining documentation and records in a case file containing the justification for the waiver requests, statements of understanding for each appointment made using this authority, and additional documents specified in the Case File Checklist (see Exhibit C);
3. Submitting completed case files to the OAMP for centralized record-keeping by the Department Acquisition Career Manager (ACM);
4. Ensuring compliance with regulatory and policy requirements prior to processing waiver requests;
5. Ensuring that all personnel actions are documented correctly on the Notification of Personnel Action, Standard Form 50;
6. Providing input to OHR for annual reporting requirements on the use of this authority as required in maintaining accountability.

837-1-60 APPOINTMENTS

- A. May be made into full-time or part-time positions on a time-limited or indefinite basis depending on the individual circumstances and needs of the organization;
- B. Will be processed in accordance with the provisions of the type of appointment action being taken as specified in the OPM Guide to Processing Personnel Actions, including proper notification of reemployment to the OPM (see Exhibit D);
- C. Must follow merit promotion procedures or exceptions to merit promotion procedures, as applicable;
- D. Must follow the provisions of Bargaining Agreements and Indian Preference law, as applicable;
- E. Must follow the provisions of the HHS Career Transition Assistance Plan (CTAP), Interagency Career Transition Plan (ICTAP), and Reemployment Priority List (RPL);
- F. Are subject to public notice requirements under 5 U.S.C. §§ 3327 and 3330, and 5 CFR Part 330.

837-1-70 WAIVER REQUESTS

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A waiver may be requested to reemploy an annuitant without offsetting their Federal salary by the amount of their retirement annuity. This authority may be requested based on the following criteria, as appropriate, and OPDIVs and STAFFDIVs must document each request as required below:

- A. For waivers based on the unique or unusually high qualifications of an individual (41 U.S.C. 433(4)(i)(3)(A)):
 1. A description of the knowledge, skills, and abilities possessed by the candidate that are essential for the work to be performed;
 2. Justification that these knowledge, skills, and abilities could not be acquired by another appointee within a reasonable amount of time.
- B. For waivers based on exceptional difficulty in recruiting a qualified employee (41 U.S.C. 433(4)(i)(3)(B)):
 1. A description of the length, breadth, and results of the agency's recruiting efforts;
 2. Any other factors (e.g., unusual qualification requirements or working conditions) which demonstrate that a legitimate recruiting need cannot be met without the requested waiver.
- C. For waivers based on exceptional difficulty in retaining a qualified employee (41 U.S.C. 433(4)(i)(3)(B)):
 1. A statement that the individual is still on HHS' rolls;
 2. A statement that the individual will be working on a specific project, rather than continuing to perform the broader duties of the position the individual occupied prior to retirement;
 3. Critical nature of the project:
 - a. The importance of the project to the OPDIV's or STAFFDIV's mission;
 - b. Potential costs of project failure or delay;
 - c. Any legislative or Presidential deadlines;
 - d. Any other factors demonstrating that the project is unusually critical.
 4. Candidate's unique qualifications
 - a. The knowledge, skills, and abilities possessed by the candidate that are essential for successful completion of the project;
 - b. Justification that these knowledge, skills, and abilities could not be acquired by another appointee within a reasonable amount of time;
 5. Other staffing options, e.g. why the work could not be assigned to other employees involved with the same project.
- D. For waivers based on a temporary emergency hiring need (41 U.S.C. 433(4)(i)(3)(C)):

1. A description of the emergency;
2. The date it occurred;
3. The expected duration of the emergency hiring need;
4. A description of how the individual is uniquely qualified to meet the emergency hiring need.

837-1-80 DOCUMENTATION, REPORTING AND ACCOUNTABILITY

A. Documentation

1. Appointments should be documented in accordance with the particular type of appointment taken, e.g. competitive, reinstatement or temporary appointment based on reinstatement, as specified in the OPM Guide to Processing Personnel Actions. However, in addition to the required authority and authority code based on the type of appointment, the authority code “ZLM” and authority “Pub. Law 109-313” shall be used.
2. Vacancy announcements should contain the following language: “Reemployed annuitants may be appointed to this position without discontinuing their annuity or offsetting their salary during the period of reemployment. However, reemployed annuitants may be required to repay their lump sum annual leave if reemployed during the projected period covered by their lump sum payment.”
3. Operating HR organizations will use the appropriate annuity indicator that reflects the annuitant is not subject to salary reduction, e.g. annuitant indicator G or 6.
4. Notifications of Personnel Action, SF-50s, must contain the following remark: “A17 – As a reemployed annuitant, you serve at the will of the appointing officer.”
5. A Statement of Understanding (see Exhibit A) is required for each appointment made using this authority.
6. Notification of the appointment to OPM is required for appropriate processing of an annuitant’s benefits resulting from reemployment. Notification is provided by forwarding to OPM a copy of the “Notification of Reemployment of an Annuitant” (see Exhibit D) or other appropriate form and a copy of the Standard Form 50, “Notification of Personnel Action”.
7. Documentation of the basis and criteria for employment of the annuitant.

B. Reporting

The OHR will coordinate the annual reports on the use of this authority, and will provide reports to OPM and OFPP by November 1 of each fiscal year beginning November 2008. At a minimum, these reports should include:

1. Number of individuals employed under the authority;

2. Name, grade level, and geographic location of each employee;
3. Part-time or full-time status; and
4. Length and terms of employment and options to renew.

C. Accountability

Managers and supervisors throughout HHS are responsible for the appropriate use of this authority to support mission requirements. OPDIVs, STAFFDIVs, and operating human resource organizations are responsible and accountable for the use and oversight of this authority. This authority may not be used solely to benefit employees or retirees.

Exhibit A Statement of Understanding

1. I, _____ (insert employee's name), am not currently a Federal employee as I am a Federal retired annuitant.
2. The position offered is:
 - a. Position Title, Series, Grade and Step:
 - b. Organization:
 - c. Appointing Authority:
 - d. Effective Date:
3. Criteria used to reemploy the retired annuitant (check one):
 - a. Unique or unusually high qualifications of the individual
 - b. Exceptional difficulty in recruiting a qualified employee
 - c. Exceptional difficulty in retaining a qualified employee
 - d. Temporary emergency hiring need
4. I will not accept the position described above without a waiver of the salary offset.

(Employee's Signature)

(Date)

(Note: This Statement of Understanding should be placed in the appropriate case file documenting the appointment.)

**Exhibit B Sample Request for Appointment of a Reemployed Annuitant
Without Salary Offset**

TO: Director, Human Resources, (Operating HR Center or Office)

FROM: (Head of Contracting Activity for OPDIV)

SUBJECT: Request for Waiver of Salary Offset

In accordance with HHS Instruction 837-1 and the authority included under the General Services Administration Modernization Act (P.L. 109-313), I hereby request the reemployment (or retention, as appropriate) without salary offset, of an individual receiving an annuity from the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System on the basis of [insert basis for waiver, e.g., the unique or unusually high qualifications of the individual].

Information about Selectee

Full name:

Last four digits of SSN:

Civil Service Annuitant (CSA) Number:

Date of retirement:

Information about Position to be Filled

Position Title, Series, Grade:

Duty Location (City, state):

Hiring authority/Duration of appointment (not-to-exceed):

Work schedule (Full-time, Part-time, Intermittent):

Please attach:

A statement documenting the criteria on which this request is based, including all the information specified in Section 837-1-70, Waiver Request.

Exhibit C Case File Checklist

1. Statement of Understanding
2. Request for Appointment Memorandum providing justification for use of the waiver authority, as appropriate, based on the specific appointment authority
3. Notification of Personnel Action, SF-50
4. Resume
5. Position Description or Statement of Duties
6. Notification of Reemployment of an Annuitant to OPM

Exhibit D Notification of Reemployment of an Annuitant

NOTIFICATION OF REEMPLOYMENT OF AN ANNUITANT

The operating Human Resources organization must complete this form and mail it, along with a copy of the Standard Form 50, Notification of Personnel Action, or agency equivalent to:

Office of Personnel Management
Retirement Operations Center
Post Office Box 45
Boyers, PA 16017

Retirement Claim Number: _____

1. Name of Annuitant (Last, First, Middle): _____

2. Date of Birth: _____ - _____ - _____

3. Social Security Number: _____ - _____ - _____

4. Type of Appointment: _____

5. Date of Appointment (Month, Day, Year): _____ - _____ - _____

6. What deductions for life insurance, if any, are being withheld from the annuity: _____None
_____Basic _____Option A _____Option B _____Option C

7. Was this appointment granted to provide interim relief pending further judicial or administrative review of an agency adverse action, under the provisions of 5 CFR § 772.102?
 YES NO

Complete items 8 through 10 below only if subject is a disability annuitant.

8. Position Description:

9. Pay System/Grade:

10. List Attached Medical Documentation:

11. Agency Certification:

I certify that the information provided above is correct.

(Printed Name) (Signature)

(Position Title/Grade) (Date)

(Agency Address)

(Telephone Number)